

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

SARTEK LLC, et al.,	:	CASE NO: 3:04-CV-0098
Plaintiff,	:	Judge: Walter H. Rice
v.	:	<u>MOTION OF PLAINTIFFS AND</u>
	:	<u>DEFENDANT WELCH ALLYN FOR</u>
LAMARTEK, INC. d/b/a DIVE-RITE,	:	<u>CONTINUANCE OF THE</u>
et al.,	:	<u>PRELIMINARY PRETRIAL</u>
	:	<u>CONFERENCE</u>
Defendant.	:	

Now come the Plaintiffs Sartek LLC and Sartek Industries, Inc. ("Sartek") and Defendant Welch Allyn and jointly move for an extension of ninety days (90) of preliminary pretrial conference in this matter, the new conference to be set on or after June 27, 2011. The basis of said Motion is set forth in the accompanying Memorandum and attached exhibit.

Respectfully submitted,

/s/James H. Greer

David C. Greer, (0009090) Trial Attorney

James H. Greer, (0046555)

Gretchen M. Treherne (0074376)

BIESER, GREER & LANDIS LLP

400 PNC Center; 6 North Main Street

Dayton, OH 45402

Tel: (937) 223-3277

Fax: (937) 223-6339

E-Mail: dgc@bgllaw.com; jhg@bgllaw.com;

gmt@bgllaw.com

Lance A. Gildner
W. Stuart Dornette
Josh Ryland
TAFT STETTINIUS & HOLLISTER LLP
110 North Main Street, Suite 900
Dayton, OH 45402-1786
Tel: (937) 228-2838
Fax: (937) 228-2816
E-mail: gildner@taftlaw.com;
dornette@taftlaw.com; jryland@taftlaw.com

*Attorneys for Plaintiffs Sartek LLC and
Sartek Industries, Inc.*

(D. Nash - per e-mail authority of 4/2/11)
Douglas Nash, Esq.
Michael Oropallo, Esq.
HISCOCK & BARCLAY
Financial Plaza
P.O. Box 4878
221 South Warren Street
Syracuse, NY 13221-4878
E-mail: dnash@hblaw.com;
moropallo@hblaw.com

William M. Mattes, Esq.
Michael J. King, Esq.
DINSMORE & SHOHL, LLP
191 West Nationwide Blvd., Suite 300
Columbus, Ohio 43215
E-mail: mattes@dinslaw.com;
mking@dinslaw.com

Attorneys for Welch Allyn, Inc.

MEMORANDUM

Counsel for Plaintiffs and Welch Allyn have agreed to make a good faith attempt to resolve the case between them through a professional mediator. They therefore have made this Motion to the Court so that additional fees and expenses are not incurred while they make an attempt to resolve this case during the requested ninety day window. On Tuesday, March 29, all other counsel of record were notified by e-mail of this request. See letter of March 29, 2011

attached hereto as Exhibit A. Later that afternoon, a conference was held with this Court and all counsel were asked if they had any objections. No objections were made during the conference nor have the undersigned heard any objections since that conference.

WHEREFORE, these parties respectfully request that a ninety day extension of the preliminary pretrial conference be granted and that a new preliminary pretrial conference be set on or after June 27, 2011. A proposed order is attached hereto as Exhibit B.

Respectfully submitted,

/s/James H. Greer

David C. Greer, (0009090) Trial Attorney
James H. Greer, (0046555)
Gretchen M. Treherne (0074376)
BIESER, GREER & LANDIS LLP
400 PNC Center; 6 North Main Street
Dayton, OH 45402
Tel: (937) 223-3277
Fax: (937) 223-6339
E-Mail: dgcg@bgllaw.com; jhg@bgllaw.com;
gmt@bgllaw.com

(D. Nash - per e-mail authority of 4/2/11)

Douglas Nash, Esq.
Michael Oropallo, Esq.
HISCOCK & BARCLAY
Financial Plaza
P.O. Box 4878
221 South Warren Street
Syracuse, NY 13221-4878
E-mail: dnash@hblaw.com;
moropallo@hblaw.com

Lance A. Gildner
W. Stuart Dornette
Josh Ryland
TAFT STETTINIUS & HOLLISTER LLP
110 North Main Street, Suite 900
Dayton, OH 45402-1786
Tel: (937) 228-2838
Fax: (937) 228-2816
E-mail: gildner@taftlaw.com;
dornette@taftlaw.com; jryland@taftlaw.com

William M. Mattes, Esq.
Michael J. King, Esq.
DINSMORE & SHOHL, LLP
191 West Nationwide Blvd., Suite 300
Columbus, Ohio 43215
E-mail: mattes@dinslaw.com;
mking@dinslaw.com

Attorneys for Welch Allyn, Inc.

*Attorneys for Plaintiffs Sartek LLC and
Sartek Industries, Inc.*

CERTIFICATE OF SERVICE

This is to certify that on the 4th day of April, 2011 a true and correct copy of the foregoing document was electronically mailed to the following:

Ronald J. Kozar, Esq.
Kettering Tower, Suite 2830
40 North Main Street
Dayton, Ohio 45423
E-mail: kozar@kozarlaw.com

Michael J. Gallagher
GALLAGHER & DAWSEY CO., LPA
P.O. Box 785
Columbus, OH 43216
mgallagher@invention-protection.com

Daniel S. Polley, P.A.
1215 East Broward Blvd.
Fort Lauderdale, FL 33301
dan@danpolley.com

Colby B. Springer
CARR & FERRELL, LLP
120 Constitution Drive
Menlo Park, CA 94025
Cspringer@carrferrell.com

*Attorneys for Halcyon Manufacturing, Inc.;
Extreme Exposure*

Attorneys for Underwater Kinetics, Inc.

David G. Duckworth, Esq.
RUSSO & DUCKWORTH, LLP
9090 Irvine Center Drive, 2nd Floor
Irvine, CA 92618
dduckworth@russoandduckworth.com

Via Regular Mail
John M. Griffiths, Chairman/CEO
23 Factory Street
Montgomery, NY 12549
Ocean Management Systems, Inc.

Robert G. Hansman, Esq.
SEBALY SHILLITO & DYER
1900 Kettering Tower
Dayton, Ohio 45423
E-mail: rhansema@ssdlaw.com
*Attorneys for Niterider Technical Lighting
Systems, Inc.; Dive Lights International, Inc.*

Joseph Indelicate P.A.
202 A. South Apopka Avenue
Inverness, FL 34450
via ordinary mail
Attorneys for D.P.V. Repair

Michael S. Hastings, Statutory Agent
2265 Columbia
Weston, FL 33326
via ordinary mail
Attorneys for Aquavideo Productions, Inc.

Robert E. Portune, Esq.
Mary Lentz, Esq.
GOTTSCHLICH & PORTUNE LLP
201 E. Sixth Street
Dayton, Ohio 45402-2836
E-mail: buzz@gplawdayton.com
Attorneys for American Underwater Lighting, Inc.; Arnold T. Jackson

Douglas Nash, Esq.
Michael Oropallo, Esq.
HISCOCK & BARCLAY
Financial Plaza
P.O. Box 4878
221 South Warren Street
Syracuse, NY 13221-4878
E-mail: dnash@hblaw.com;
moropallo@hblaw.com

William M. Mattes, Esq.
Michael J. King, Esq.
DINSMORE & SHOHL, LLP
191 West Nationwide Blvd., Suite 300
Columbus, Ohio 43215
E-mail: mattes@dinslaw.com;
mking@dinslaw.com
Attorneys for Welch Allyn, Inc.

Lance A. Gildner
TAFT STETTINIUS & HOLLISTER LLP
110 North Main Street, Suite 900
Dayton, OH 45402-1786
E-mail: gildner@taftlaw.com
Attorney for Third Party Defendant Carl Saieva

BIESER GREER & LANDIS LLP

By: /s/James H. Greer